



# WEST VIRGINIA NATIONAL GUARD

## DOUGLAS FACTORS ANALYSIS WORKSHEET

### Determining Appropriateness of Penalty Checklist

Employee's Name:

Action Proposed and Date of Proposal:

**Note: This Douglas Factors Analysis Worksheet must be completed and presented to the employee at the initial presentation of the Proposed Action Letter.**

#### NOTICE

As the Proposing Official you are responsible for considering all relevant Douglas Factors (listed below) in determining whether the proposed disciplinary action is appropriate.

Your analysis of the Douglas Factors will be considered part of the case file, and you could be asked to testify regarding your analysis, should the employee appeal the decision.

Be sure to include all information that you relied upon in making your determination regarding the appropriateness of the penalty in this analysis of the Douglas Factors.

#### INSTRUCTIONS

Each of the factors should be considered in light of the facts and circumstances presented in management's proposal letter (and supporting documents) and in the employee's reply.

For each factor, you should annotate whether the factor has been considered aggravating, mitigating, or having no impact (was neutral) in your formulating your final decision.

Write a brief explanation for each factor you determine to be aggravating or mitigating-particularly with respect to those factors you consider "aggravating."

Aggravating: to make more severe, intense, serious, worse, or grave.

Neutral: Neither a contributing nor detracting factor.

Mitigating: to make less severe, intense.



**3. Employee's past disciplinary record:**

List all previous disciplinary actions considered

Action effected

Date

Aggravating      Neutral      Mitigating

**Explanation**

**4. Employee's past work record.**

a. How long has the employee been with the current organization?

b. How long has the employee been with the Federal government?

c. Ratings of last three performance appraisals.

    Last Rating of Record

    Year Prior Rating of Record

    Two Years Prior Rating of Record

d. Is current performance acceptable?

Yes      No

**[If no, attach counseling to this form]**

Aggravating      Neutral      Mitigating

**Explanation**

**5. Effect of the offense on the employee's ability to perform his or her job and effect on supervisor's confidence in the employee.**

Did the offense affect:

a. The employee's ability to do the job? [For example, an employee cannot perform job duties if AWOL.]

Yes      No

b. Your confidence in the employee's ability to do job? [For example, the employee is responsible for approving leave but lied on a timecard.] Yes No

c. Your confidence in the employee's ability to uphold the organization's mission? [For example, a supply specialist stealing supplies.] Yes No

Aggravating Neutral Mitigating

**Explanation**

**6. Consistency of penalty with other employees' penalties for similar offenses.**

Aggravating Neutral Mitigating

**Explanation:**

**7. Consistency with agency's Table of Penalties.** [The table is only a guide; and reasons for departing from it must be rational, well-reasoned, and explained because disparate treatment often forms the basis for claims of discrimination.]

Aggravating Neutral Mitigating

**Explanation:**

**8. Notoriety of the offense or its impact on the agency's reputation.** [Adverse publicity within or the possibility of adverse publicity outside the agency that could have a negative impact on the reputation of the agency or the agency's mission is a factor that may be considered to enhance a penalty.]

Aggravating Neutral Mitigating

**Explanation:**

**9. Clarity of notice to employee of unacceptable conduct.**

Aggravating      Neutral      Mitigating

**Explanation:**

**10. Potential for employee's rehabilitation.**

Aggravating      Neutral      Mitigating

**Explanation:**

**11. Mitigating circumstances.**

The following factors do not excuse the misconduct; however, they may encourage you to reduce (mitigate) the penalty if the employee:

- a. Was under unusual job stress? Yes      No  
[For example, stress contributed to the employee's insubordination.]
- b. Was experiencing personal problems? Yes      No
- c. Was provoked? Yes      No  
[For example, a coworker threatened the employee before the employee punched the coworker.]
- d. Was apologetic? Yes      No
- e. Brought the misconduct to management's attention? Yes      No  
[For example, the employee confessed the misuse of a Government Travel

Aggravating      Neutral      Mitigating

**Explanation:**

**12. Adequacy of alternative sanctions to deter misconduct.**

Aggravating    Neutral    Mitigating

**Explanation:**

**Decision: After giving full and impartial consideration to the circumstances surrounding the proposed action, the evidence supporting the proposed action, the employee's reply (if a reply was provided), and the factors above, I have decided to [check one] :**

Sustain the action as proposed.

Reduce the penalty to

Offer the employee an alternative sanction [discuss options with Human Resources].

Cancel the proposed action in its entirety.

**Additional comments**

I [print name] certify that all of the information I considered in determining the appropriateness of the proposed penalty has been included in this analysis of the Douglas Factors and that I have considered all relevant Douglas Factors.

Signature

Date